

Message Text

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ACTION COME-00

INFO OCT-01 EA-09 ISO-00 EB-08 HEW-06 TRSE-00 L-03

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FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC 3219

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UNCLAS SECTION 1 OF 2 JAKARTA 11002

DEPARTMENT PASS COMMERCE

E.O. 11652: N/A

TAGS: EAGR, ETRD, EPAP, ID

SUBJECT: INDONESIAN FOOD AND BEVERAGE REGISTRATION REGULATIONS

REF: A. AGATT AIRCOMM DTD 6/28/77 B. STATE 16252 C. JAKARTA 9571

1. SUMMARY: OVER THE PAST SEVERAL WEEKS AN EVALUATION OF THE IMPACT OF THE DEPARTMENT OF HEALTH REGISTRATION REQUIREMENTS FOR PROCESSED FOODS AND BEVERAGES HAS BEEN CONTINUED BY AG ATT. END SUMMARY.

2. PRINCIPAL OFFICIAL DEVELOPMENT HAS BEEN ISSUANCE ON JULY 9 OF A NEW DECREE BY DEPARTMENT OF TRADE NO. 003/DGLU/KP/VII/77 WHICH CONSIDERABLY STRENGTHENS A PREVIOUS DOT DECREE OF AUGUST 14, 1974, INTENDED TO FACILITATE THE IMPLEMENTATION OF THE ORIGINAL REGISTRATION REQUIREMENTS ON PROCESSED FOODS (AND DRUGS) PROMULGATED IN 1972 BY THE DEPARTMENT OF HEALTH.

3. UP TO THE PRESENT THE DEPARTMENTS OF HEALTH AND TRADE EFFORTS TO GAIN CONTROL OVER IMPORTS OF PROCESSED FOODS HAS HAD LITTLE SUCCESS AND THE REGULATIONS HAVE BEEN LARGELY IGNORED BY IMPORTERS. ALTHOUGH LABELS OF ALL PROCESSED FOODS AND BEVERAGES ARE REQUIRED TO CARRY THE DEPARTMENT OF HEALTH UNCLASSIFIED

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REGISTRATION NUMBER A RECENT EXAMINATION IN TWO MAJOR SUPER-MARKETS FOUND NOT A SINGLE IMPORTED PROCESSED FOOD PRODUCT OR BEVERAGE CARRYING THE DEPARTMENT OF HEALTH REGISTRAION NUMBERS. ON THE OTHER HAND, VIRTUALLY ALL DOMESTICALLY PRODUCED PROCESSED FOODS AND BEVERAGES DO CARRY THE REGISTRATION NUMBERS ON THEIR LABELS.

4. THE JULY 9 DEPARTMENT OF TRADE DECREE CONTAINS THE FOLLOWING PROVISIONS AS EXPLAINED AG ATT BY MA SOEMADYO, DIRECTOR OF IMPORTS, DOT: (1) IMPORTERS OR LEGITIMATE REPRESENTATIVES OF FOREIGN COMPANIES MUST REGISTER IN COMPLIANCE WITH DEPARTMENT OF HEALTH DECREES RI NO. 115 9/13 ISK/UY AND NO. 330/MEN.KES/PER/XII/76 BOTH OF DECEMBER 31, 1976; (2) EACH PRODUCER OR SUPPLIER IS ALLOWED TO APPOINT ONLY ONE IMPORTER FOR ONE TRADE MARK OF EACH DIFFERENT PRODUCT; IMPORTER MUST PRODUCE BONAFIDE LETTER OF APPOINTMENT; (3) IMPORTERS WILL BE PERMITTED TO IMPORT VARIOUS PRODUCTS OF ONE TRADE MARK OR ONE PRODUCT WITH A DIFFERENT TRADE MARKS OR SAME PRODUCTS/TRADE MARKS ORIGINATING FROM DIFFERENT COUNTRIES (DIFFERENT PRODUCTS UNDER SAME BRAND NAME MUST BE REGISTERED); (4) IMPORTERS AFTER REGISTRATION WILL BE ISSUED IMPORTERS IDENTIFICATION CARDS; (5) IMPORTERS MUST OBTAIN IN ADDITION TO REGULAR IMPORT LICENSES A SPECIAL IMPORT LICENSE (TAPPI) FROM DEPARTMENT OF TRADE; TAPPI LICENSE CAN ONLY BE OBTAINED BY IMPORTER PRODUCING DEPARTMENT OF HEALTH REGISTRATION NUMBER AND BONAFIDE LETTER OF APPOINTMENT AS IMPORT AGENT FOR SUPPLIER; (6) IMPORTERS WITH OPEN LC'S AS OF JULY 9 CAN LEGALLY IMPORT MERCHANDISE INVOLVED DURING FOLLOWING 60 DAY PERIOD BUT PRODUCTS CANNOT BE DISTRIBUTED IN INDONESIA UNLESS REGISTERED WITH DEPARTMENT OF HEALTH; (7) NO IMPORTED GOODS CAN BE DISTRIBUTED IN INDONESIA UNTIL REGISTRATION NUMBERS OBTAINED FROM DEPARTMENT OF HEALTH; (8) ALL CURRENT IMPORTERS OF PROCESSED FOOD AND BEVERAGES MUST REPORT TO DEPARTMENT OF TRADE ON THEIR CURRENT IMPORT

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ACTIVITIES AND FOR THE PREVIOUS YEAR; (9) IMPORTERS WHO VIOLATE PROVISIONS OF DECREE WILL BE LIABLE TO ADMINISTRATIVE MEASURES AND OTHER SANCTIONS IN ACCORDANCE WITH EXISTING LAWS; (10) DEPARTMENT OF TRADE WILL MAKE PUBLIC ANNOUNCEMENTS OF ALL APPOINTMENTS OF FOOD AND BEVERAGE IMPORT AGENTS.

5. A FURTHER DEVELOPMENT WITH RESPECT TO THE DOT DECREE WAS ANNOUNCED AT A PUBLIC MEETING CONDUCTED BY REPRESENTATIVE OF GAPMMI (ASSOCIATION OF FOOD AND BEVERAGE ENTREPRENEURS) ON AUG 10 AT DEPARTMENT OF HEALTH ATTENDED BY AG ATT AND EMB OFF. THIS ANNOUNCEMENT WAS OF THE EFFECT THAT AFTER SEPT 9, 1977, PROCESSED FOODS AND BEVERAGES CAN ONLY BE IMPORTED BY A VALID REGISTERED IMPORTER WHO HOLDS A SPECIAL DOT TAPPI LICENSE. TAPPI LICENSE CAN ONLY BE OBTAINED BY IMPORTERS PRODUCING A BONAFIDE LETTER OF APPOINTMENT FROM THE SUPPLIER AND A VALID REGISTRATION FOR THE PRODUCT FROM DEPARTMENT OF HEALTH.

6. IT IS NOW QUITE CLEAR THIS PROCESS OF ESTABLISHING CONTROL OVER IMPORTS OF PROCESSED FOODS AND BEVERAGES IS BEING MASTERMINDED BY GAPMMI OR WHOEVER IS BEHIND GAPMMI. GAPMMI HAS NOW BEEN OFFICIALLY APPOINTED BY THE MINISTRY OF HEALTH TO IMPLEMENT ITS REGISTRATION REQUIREMENTS. THIS APPOINT

OF GAPMMI WAS CONFIRMED TO AG ATT BY DR. SOENARTO PRAWIROSUJANTO, DIRECTOR GENERAL FOR FOOD AND DRUG CONTROL, DEPARTMENT OF HEALTH. AT AUG 10 MEETING MENTIONED PARA 5, A GAPMMI REPRESENTATIVE SAID THEY HAD URGED DEPARTMENT OF TRADE TO PREVAIL ON BANK OF INDONESIA TO INSTRUCT COMMERCIAL BANKS TO REQUIRE THAT APPLICATIONS FOR COMMERCIAL LETTERS OF CREDIT MUST INCLUDE BONAFIDE LETTER OF APPOINTMENT AS IMPORT AGENT, DEPARTMENT OF HEALTH REGISTRATION NUMBER AND SPECIAL TAPPI IMPORT LICENSE FROM DOT. THE LC WHEN OPENED MUST CONTAIN THE IMPORTER DESIGNATION, THE DEPARTMENT OF HEALTH REGISTRATION NUMBER, SPECIAL TAPPI LICENSE NUMBER FROM DOT AS WELL AS REGULAR IMPORT LICENSE NUMBER. AN OFFICER OF THE HONG KONG AND SHANGHAI BANK WHICH IS VERY ACTIVE IN FINANCING FOOD AND BEVERAGE IMPORTS HAS CONFIRMED THAT AN OFFICIAL OF THE BANK OF

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INDONESIA AS ADVISED HIM BOI INTENDS TO ISSUE SUCH A REGULATION IN THE NEAR FUTURE. WHEN THIS ADDITIONAL CONTROL OVER LC'S IS ESTABLISHED THE CONTROL OVER IMPORTS OF PROCESSED FOODS AND BEVERAGES WILL BE VIRTUALLY COMPLETE. ONE FINAL STEP WILL BE TO PERSUADE THE CUSTOMS SERVICE TO COOPERATE IN PERMITTING ONLY IMPORTS FINANCED BY LC'S COMPLYING WITH BANK OF INDONESIA

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R 170055Z AUG 77
FM AMEMBASSY JAKARTA
TO SECSTATE WASHDC 3220
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DEPARTMENT PASS COMMERCE

INSTRUCTIONS. THUS FAR, EFFORTS TO OBTAIN ENFORCEMENT COOPERATION FROM CUSTOMS IN IMPLEMENTING THE DEPARTMENT

OF HEALTH REGULATIONS HAVE NOT BEEN SUCCESSFUL ACCORDING TO THE TRADE.

7. A PROMINENT REPRESENTATIVE OF A MAJOR IMPORTER OF PROCESSED FOODS AND BEVERAGES, C.V. HERO (ALSO OPERATOR OF SEVERAL LARGE SUPERMARKETS), ADVISES THAT THE ENTIRE ADMINISTRATION OF THE DEPARTMENT OF HEALTH REGISTRATION REQUIREMENTS IS BEING CARRIED OUT BY GAPMMI. SAMPLES OF BRAND NAME PRODUCTS AND ALL DOCUMENTATION INCLUDING BONAFIDE LETTER OF APPOINTMENT OF IMPORT AGENT MUST BE SUBMITTED TO GAPMMI IF REGISTRATION WITH DEPARTMENT OF HEALTH IS TO BE ACCOMPLISHED. MEMBERSHIP IN GAPMMI THUS BECOMES A VIRTUAL NECESSITY FOR IMPORTERS. A CORRECTION SHOULD BE NOTED TO STATEMENT IN AG ATT AIRCOMM OF JUNE 28 WHICH REPORTED MEMBERSHIP FEE TO JOIN GAPMMI IS RP 250,000 (\$600). RP 250,000 IS, IN FACT, THE

MINIMUM FEE AS GAPMMI SCALES FEES UPWARD BASED ON VOLUME OF IMPORTS BY EACH FIRM. C.V. HERO ADVISES IT PAID RP 1,000,000 (US\$2,413) AS MEMBERSHIP FEE TO GAPMMI.

8. WITH REGARD TO REF B, V.V. HERO ARE AGENTS FOR INTERNATIONAL UNCLASSIFIED

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MULTIFOODS. HERO HAS ALREADY RE-REGISTERED ON BEHALF OF MULTIFOODS TWO BICKS PICKLE PRODUCTS AND ONE ROBIN HOOD MIX PRODUCT. BICKS FORMERLY HAD AT LEAST SIX PRODUCTS AND A NUMBER OF ROBIN HOOD MIXES ON THE MARKET HERE BUT HERO CONSIDERS SALES VOLUME OF OTHER THAN THE THREE RE-REGISTERED TO BE INSUFFICIENT TO WARRANT REGISTRATION OF THESE OTHER PRODUCTS.

9. REGARDING PARA 3, REF B, DEPARTMENT OF HEALTH ADVISES THERE IS NO PENALTY FOR LATE RE-REGISTRATION AND NEW PRODUCTS CAN STILL BE REGISTERED. WOULD ANTICIPATE AT SOME POINT IN FUTURE FURTHER REGISTRATION MAY BE PROHIBITED. DIRECTOR GENERAL SOENARTO OF MINISTRY OF HEALTH ADVISED AG ATT IT WAS THEIR INTENTION TO REDUCE THE NUMBER OF PROCESSED FOODS AND BEVERAGES ON THE INDONESIAN MARKET. HE SAID THEY HAD ACCOMPLISHED THIS THROUGH THE PARALLEL CONTROL OF DRUG PRODUCTS HAVING REDUCED THE NUMBER FROM 3,000 PRODUCTS ORIGINALLY TO 125 LAST YEAR.

10. COMMENT: IT IS NOT YET POSSIBLE TO PREDICT HOW MUCH OR IN WHAT WAYS THE NEW SYSTEM WILL DISCRIMINATE AGAINST IMPORTS AND IN FAVOR OF DOMESTIC PRODUCTS; BUT, OBVIOUSLY, THERE ARE NUMEROUS POTENTIALS FOR DISCRIMINATORY PRACTICES AND HIDDEN COSTS TO DEVELOP MAKING SALE OF IMPORTED PRODUCTS MORE DIFFICULT AND EXPENSIVE THAN DOMESTIC PRODUCTS. AS STATED ABOVE, UNTIL RECENT DEVELOPMENTS THE DEPARTMENT OF HEALTH REGISTRATION REQUIREMENTS WERE LARGELY INEFFECTIVE AND THUS LITTLE EVIDENCE THAT TRADE INTERFERENCE OCCURRED. WITH NEW

EFFORTS BEING MADE TO MAKE CONTROLS MORE EFFECTIVE IMPORTERS ANTICIPATE A LARGE NUMBER OF PRODUCTS NOW AVAILABLE BUT WITH SMALL SALES VOLUME WILL DISAPPEAR AS EXPORTERS CANNOT AFFORD REGISTRATION COST OVERHEAD.

11. PROCESSED FOOD AND BEVERAGE IMPORTS FROM U.S. BY INDONESIA
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THAT CAN BE IDENTIFIED IN CENTRAL BUREAU OF STATISTICS DATA TOTALED \$2.7 MILLION IN 1976. TOTAL IMPORTS FROM ALL SOURCES \$49.9 MILLION. THIS FIGURE UNDOUBTEDLY CONTAINS SUBSTANTIAL U.S. IMPORTS WHICH SHOW UP IN IMPORT STATISTICS AS ORIGINATING FROM SINGAPORE OR HONG KONG.

12. IMPORTS FOR SUCH INSTITUTIONS AS HOTELS COULD BECOME FAR MORE COMPLICATED, DIFFICULT AND EXPENSIVE WITH DEPARTMENT OF TRADE REQUIREMENT THAT EXCLUSIVE IMPORTERS BE APPOINTED FOR EVERY BRAND. FOR EXAMPLE, JAKARTA HILTON AT PRESENT RELIES ON ONE IMPORTER TO BRING IN FULL RANGE OF FOOD AND BEVERAGE PRODUCTS IS REQUIRED. IMPORTER NORMALLY MAKES UP MIXED CONTAINER LOADS IN SINGAPORE CONTAINING MANY DIFFERENT BRANDS AND PRODUCTS. PRESUMABLY THIS WILL NOT BE POSSIBLE IN FUTURE UNLESS SOME COMPLICATED ARRANGEMENTS CAN BE MADE WITH EACH AUTHORIZED BRAND IMPORTER SINCE HILTON'S PRESENT IMPORTER WOULD NOT BE ABLE TO OBTAIN THE TAPPI IMPORT LICENSES AND LC'S. FURTHERMORE, IMPORTERS ARE FEARFUL THAT PRESENT SYSTEM WILL EVENTUALLY EVOLVE INTO AN IMPORT ALLOCATION SYSTEM WHERE IMPORT QUOTAS WILL BE SET FOR GIVEN PRODUCTS, SUCH AS WHISKEY OR CANNED CORN, ETC. IN THIS EVENT HOLDERS OF BRAND IMPORT RIGHTS WOULD HAVE TO FIGHT IT OUT WITH COMPETITORS FOR SHARE OF IMPORT QUOTAS. THEY FULLY EXPECT ANY SUCH COMPETITION TO BE VERY COSTLY. IMPORTERS ANTICIPATE IT WILL BECOME EXCEEDINGLY DIFFICULT TO CHANGE APPOINTED AGENTS IN EVENT OF DISSATISFACTION WITH AGENT'S SALES PERFORMANCE.

13. COMMENT: IT WOULD APPEAR THERE IS A PRIMA FACIE CASE OF DISCRIMINATION AGAINST IMPORTERS WITHIN THE MEANING OF ARTICLE III OF GATT THROUGH THE SUBSTANTIALLY HIGHER FEES CHARGED BY THE DEPARTMENT OF HEALTH FOR REGISTRATION OF IMPORTED BRANDS AND PRODUCTS AS OPPOSED TO THOSE CHARGED FOR REGISTRATION OF DOMESTIC BRANDS AND PRODUCTS. AS THE DOH, DOT AND POTENTIAL BOI REGULATIONS ARE NOT YET FULLY EFFECTIVE, IT IS NOT POSSIBLE TO IDENTIFY OTHER FORMS OF DISCRIMINATION AND/OR TRADE DAMAGE. POTENTIAL FOR SUCH
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DISCRIMINATION AND TRADE DAMAGE DOES EXIST PARTICULARLY WITH INVOLVEMENT OF A PRIVATE ORGANIZATION SUCH AS GAPMMI WHICH CLEARLY STANDS TO BENEFIT IF THESE CONTROLS ARE MADE FULLY EFFECTIVE. WHILE DISCRIMINATION CLEARLY EXISTS IN DIFFERENTIAL REGISTRATION FEE CHARGES THE ACTUAL CHARGES WHEN VIEWED ON AN ANNUAL AND PER PRODUCT BASIS ARE NOT OF GREAT MAGNITUDE. AT PRESENT, HOWEVER, FEE CHARGES ARE THE ONLY CLEAR CUT BASIS ON WHICH A GATT ACTION OR OFFICIAL COMPLAINT TO GOI CAN BE BASED. ON BALANCE, EMBASSY BELIEVES COMPLAINT AGAINST GOI TO GATT COUNCIL UNDER ARTICLE III MAY HAVE A SALUTORY EFFECT IN HEADING OFF FUTURE ABUSES WHICH MAY EMERGE AS SYSTEM EVOLVES. EMBASSY WILL CONTINUE TO FOLLOW DEVELOPMENTS CLOSELY AND REPORT AS APPROPRIATE.

14. OTHER EMBASSIES SUCH AS AUSTRALIAN, CANADIAN, NETHERLANDS AND FRANCE CLOSELY FOLLOWING THESE DEVELOPMENTS.
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Message Attributes

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Executive Order: N/A
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SAS ID: 1579962
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vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/782d6b59-c288-dd11-92da-001cc4696bcc
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